

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. LORENZO OLIVA Y ROSELA, APPELLANT.

G.R. No. 187043. September 18, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Lorenzo Oliva appeals from the Court of Appeals (CA) Decision[1] dated April 21, 2008 in CA-G.R. CR No. HC-02102, affirming his conviction of rape but modifying the amount of damages.

The records disclose the following facts:

Sometime in March 2003, at about 3:00 o'clock in the afternoon, appellant Lorenzo Oliva asked his 11-year-old daughter, "M," to go with him to the farm of Naty Astor. When they arrived at the place, he ordered her to undress. She obeyed the order because she was afraid of him and he had a bolo, about 16 inches long, which he brandished near her head. After removing her short pants and panty, appellant mounted her and inserted his penis into her vagina. It was painful and she cried. About 15 minutes later, he told her to dress up and then she went home. Two of her siblings were home when she arrived, while her mother was washing clothes in the river about 100 meters away. She did not tell any of them about the incident because she feared her father might kill them.

The incident was repeated on September 9, 2003. At about 3:00 o'clock in the morning of that day, appellant awakened "M." She noticed that her shorts and panty were missing. Her sister was sleeping beside her, but appellant pulled her towards the door. Near the door, appellant went on top of her and inserted his penis into her vagina while covering her mouth to silence her. It was then that her mother saw them. "M" was so afraid, and she sat on the stairs while she put on her panty and her shorts. Her mother, who was visibly upset, asked appellant what he was doing but he simply ignored her. Her mother reported the incident to the police authorities. Thereafter, they went to the residence of M's Lola Naty Astor to see a doctor.

Dr. Nena L. Cruz, Municipal Health Officer of Sipocot, Camarines Sur, examined "M" on September 1, 2003. Dr. Cruz found old healed hymenal lacerations at the 4 o'clock and 9 o'clock positions in the victim's vagina. She further noted that the victim did not exhibit pain upon insertion of one finger; but, with two fingers, there was a slight resistance.

Appellant was charged with two counts of rape under the following Informations:

CRIMINAL CASE NO. L-3821

That on or about 3:00 o'clock in the morning of September 9, 2003 while the private offended party was sleeping inside their house at B[rg]y. Malaguico, Municipality of Sipocot, Province of Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused with lewd designs, did then and there willfully, unlawfully and feloniously succeed in having carnal knowledge with his own daughter, "M," a 12-year-old minor taking advantage of his moral ascendancy over the latter against her will and without her consent to her damage and prejudice in such amount as may be awarded by the Honorable

Court.

ACTS CONTRARY TO LAW.[2]

CRIMINAL CASE NO. L-3822

That sometime [i]n March 2003 in a forested and grassy land owned by Mrs. Naty Astor at B[r]gy. Malaguico, Municipality of Sipocot, Province of Camarines Sur, Philippines while accompanied by the above-named accused to gather firewood, and within the jurisdiction of this Honorable Court, the above-named accused with lewd [design], did then and there willfully, unlawfully [and feloniously succeed in having carnal knowledge] with his own daughter, "M," an 11-year-old minor taking advantage of his moral ascendancy over the latter against her will and without her consent to her damage and prejudice in such amount as may be awarded by the Honorable Court.

ACTS CONTRARY TO LAW.[3]

When arraigned, appellant pleaded not guilty to the two charges.

During the pretrial, appellant admitted that he is the biological father of "M" and that she was a minor at the time the incidents happened.

The victim's birth certificate shows that she was born on May 9, 1991. Thus, she was only 11 years and 9 months old when the first incident happened; and 12 years and four months old at the time of the second one.

Appellant belied the testimony of "M." He claimed that his wife told him that "M" was molested in the river by her uncle Benjamin, his wife's half-brother. At one time, "M" went with appellant to the farm, and there he asked her if she had been raped by her uncle. When she did not answer, he told her to undress and to lie down. While she was lying down, he examined her vagina and saw that the opening was already big, so he determined that she had sexual intercourse with her uncle. To further determine if she was no longer a virgin, he took a coconut leaf, measured her neck with it, placed it around her head, and let it slide down. When the coconut leaf slid down, he concluded that she was no longer a virgin. As to the incident of September 9, 2003, he said that he was asleep at about 3:00 o'clock in the morning because he was drunk then.

The Regional Trial Court (RTC) found appellant guilty beyond reasonable doubt of two counts of rape, thus:

WHEREFORE, the prosecution having proved the guilt of accused beyond reasonable doubt, this court hereby finds LORENZO OLIVA y ROSELA, GUILTY in Criminal Case No. L-3821 and L-3822 of the crime of Rape defined and penalized under Article 266 A(1)(a) and Article 266 B(1) and Article 266 A(1)(d) and [Article] 266 B(1) respectively, and is hereby sentenced to suffer the supreme penalty of Death in each case, and in line with recent jurisprudence, to indemnify the victim [M] the sum of One Hundred Fifty Thousand Pesos (P150,000.00) as civil indemnity in these two cases and the further sum of Seventy [F]ive Thousand Pesos (P75,000.00) as moral damages, and to serve as a deterrent to fathers in sexually abusing their own flesh, this court also awards the amount of Twenty Five Thousand Pesos (P25,000.00) as exemplary damages and to pay the costs of the suit.

SO ORDERED.[4]

The CA affirmed the RTC Decision with the following modifications: the penalty was reduced to reclusion perpetua for each offense, in view of Republic Act No. 9346, which prohibits the imposition of the death penalty; civil indemnity and moral damages were reduced to P100,000.00, each; and exemplary damages to P50,000.00.[5]

On appeal to this Court, both the Office of the Solicitor General and appellant manifested that they would no longer file supplemental briefs.

The appeal has no merit.

The Court sustains the decision of the trial court, as affirmed by the CA, finding appellant guilty beyond reasonable doubt of two counts of rape. The legal aphorism is that factual findings of the trial court, its calibration of the testimonies of the witnesses, and its assessment of their probative weight are given great respect if not conclusive effect, unless it ignored, misconstrued, misunderstood, or misinterpreted cogent facts and circumstances of substance which, if considered, would alter the outcome of the case.[6]

The victim's narration of the ordeal that she suffered at the hands of her own father was straightforward and categorical; hence, it must be given full faith and credit. Further, courts usually give credence to the testimony of a girl who is a victim of sexual assault particularly if it constitutes incestuous rape because, normally, no person would be willing to undergo the humiliation of a public trial and to testify on the details of her ordeal were it not to condemn an injustice. Needless to say, it is settled jurisprudence that testimonies of child victims are given full weight and credit, because when a woman, more so if she is a minor, says that she has been raped, she says in effect all that is necessary to show that rape was committed. Youth and immaturity are generally badges of truth and sincerity.[7]

To the contrary, appellant's explanation that he was just trying to confirm if "M" was still a virgin when he asked her to lie down and "examined" her vagina is too inane to be believed.

In an attempt to discredit the victim's testimony, appellant points out certain discrepancies in her testimony, such as the exact time they went to the farm of Naty Astor. Such discrepancy is trifling. The gravamen of rape is carnal knowledge of a woman under any of the circumstances provided by law.[8] Thus, the precise time when the rape took place has no substantial bearing on its commission. As such, the date or time need not be stated with absolute accuracy.[9]

The victim cannot be expected to store methodically in her memory the sordid details of a rape incident and, when called to testify in court, give a completely detailed and accurate account of the harrowing experience she suffered. Thus, minor inconsistencies in the narration are generally given liberal appreciation by the trial court.

As to the second incident, appellant simply averred that he was asleep at that time. Such defense fails in light of the categorical testimony of the victim. Mere denial, if unsubstantiated by clear and convincing evidence, has no weight in law and cannot be given greater evidentiary value than the positive testimony of a rape victim.[10]

The imposition of the penalty of death, which was reduced to reclusion perpetua in view of Republic Act No. 9346, was proper considering that the qualifying circumstance of minority and relationship had been duly established. The Court, however, modifies the award of damages in light of more recent jurisprudence increasing the amount of civil indemnity to P75,000.00, moral damages to P75,000.00,[11] and exemplary damages to P30,000.00[12] to deter other persons with perverse or aberrant sexual behavior from sexually abusing their children.

WHEREFORE, the Court of Appeals Decision dated April 21, 2008, finding appellant Lorenzo Oliva guilty beyond reasonable doubt of two counts of qualified rape and sentencing him to suffer the penalty of reclusion perpetua for each count is AFFIRMED WITH MODIFICATIONS. Appellant is ordered to pay P150,000.00 as civil indemnity, P150,000.00 as moral damages, and P60,000.00 as exemplary damages.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

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- [1] Penned by Associate Justice Monina Arevalo-Zenarosa, with Associate Justices Edgardo F. Sundiam and Sixto C. Marella, Jr., concurring; rollo, pp. 2-21.
- [2] Id. at 3.
- [3] Id.
- [4] CA rollo, p. 46.
- [5] Rollo, p. 20.
- [6] *People v. Alabado*, G.R. No. 176267, September 3, 2007, 532 SCRA 189, 206.
- [7] *People v. de Guzman*, 423 Phil. 313, 331 (2001).
- [8] *People v. Rafon*, G.R. No. 169059, September 5, 2007, 532 SCRA 370, 380.
- [9] *People v. Domingo*, G.R. No. 177744, November 23, 2007, 538 SCRA 733, 737-738.
- [10] *People v. Lizano*, G.R. No. 174470, April 27, 2007, 522 SCRA 803, 811.
- [11] *People of the Philippines v. Lilio U. Achas*, G.R. No. 185712, August 4, 2009.
- [12] Id.; *People of the Philippines v. Adelado Anguac y Ragadao*, G.R. No. 176744, June 5, 2009.

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